

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

REQUEST FOR CONSOLIDATION OF OPPOSITION DEADLINES

Hogan & Hartson L.L.P. ("Petitioner") hereby requests consolidation of the deadline for filing oppositions to the petitions for reconsideration in the above-captioned proceeding 1/ with the deadline for the filing of oppositions to supplements to those petitions for reconsideration. 2/ Consolidation of these two deadlines will promote administrative efficiency, reduce confusion and duplicative submissions, and expedite this proceeding. Because the existing deadline for filing oppositions to the petitions for reconsideration is July 18, 1997, we hereby request expedited action on this request.

1/ *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Sixth Report and Order*, FCC 97-115 (April 21, 1997) ("*Sixth Report & Order*"). Hogan & Hartson L.L.P. has participated in this proceeding on behalf of a number of clients.

2/ *Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings*, 62 Fed. Reg. 36066 (1997) ("Public Notice").

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I. BACKGROUND

On April 21, 1997, the Commission released the *Sixth Report and Order* in the DTV proceeding, including a proposed table of DTV channel allotments ("DTV Table"). ^{3/} In response, some 220 petitions were filed, asking the Commission to reconsider many aspects of the *Sixth Report and Order* and/or the DTV Table. An overwhelming number of these petitions requested an opportunity to supplement their petitions for reconsideration once OET Bulletin No. 69 had been released. ^{4/}

On July 2, 1997, the Office of Engineering and Technology ("OET") released OET Bulletin No. 69. Concurrently, the Commission released an Order that provided an additional 45-day period for parties to supplement their petitions for reconsideration of the *Sixth Report and Order*. ^{5/} According to the Order, parties have until August 22, 1997 to supplement their petitions for reconsideration of individual DTV allotments. ^{6/} Under the Commission's rules, oppositions to any supplements would be due September 6, 1997, or 15 days after the deadline for the supplemental filings. ^{7/} Thereafter, on July 3, 1997, public notice of the petitions for reconsideration was

^{3/} See *Sixth Report & Order* at Appendix B.

^{4/} More than 100 petitioners (roughly half of those seeking reconsideration) explicitly commented upon the absence of OET Bulletin No. 69 or the lack of precise information regarding the Commission's allotment methodology.

^{5/} *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, Order*, FCC 97-1377 (July 2, 1997).

^{6/} See *id.*

^{7/} See 47 C.F.R. § 1.429(f).

published in the Federal Register. 8/ Pursuant to the Commission's rules, oppositions to these petitions must therefore be filed on or before July 18, 1997. 9/

We urge the Commission to consolidate the deadline for filing oppositions to petitions for reconsideration with the deadline for filing oppositions to supplements to the petitions in order to streamline the DTV proceeding and avoid the enormous waste of resources that would result from two sets of opposition pleadings (and replies). A single deadline for oppositions after the August 22 deadline for filing supplements to petitions for reconsideration would vastly reduce the number of filings in the already voluminous record in the captioned proceeding. Under the existing schedule, if a party wishes to oppose a particular petition for reconsideration, it must file an opposition to that petition by July 18, 1997, and then -- depending on whether the petitioner supplements its petition for reconsideration -- may have to file a separate opposition to supplement by August 22, 1997. Presumably, the petitioner must also be prepared to file two separate replies, one to the initial opposition, and one to the opposition to the supplement. The Commission's staff would then have to review the initial petition for reconsideration, the initial opposition and the initial reply, as well as the supplement to that petition, any opposition to the supplement, and any reply to the opposition to the supplement. Moreover, even if a specific petition is not supplemented, supplements to other petitions could affect the arguments contained in the unsupplemented petition,

8/ See Public Notice at 36066.

9/ See *id.*

prompting the petitioner to alter its initial proposal, and thereby setting up a further round of pleadings.

A consolidated opposition deadline after the date for supplementing petitions would instead permit all parties to prepare (and the Commission's staff to review), a single, consolidated opposition to all petitions, as supplemented. Petitioners then would have the opportunity to file one unified reply to that opposition. The result would be a more efficient, and significantly less confusing, proceeding. 10/

There are no drawbacks to the consolidation of these deadlines. An overwhelming number of petitioners have already indicated an intention to supplement their petitions following the release of OET Bulletin No. 69. 11/ If these petitioners ultimately take advantage of the opportunity to supplement their petitions, the exercise of reviewing and responding to their original petitions on July 18 will be entirely futile.

Nor would a consolidated deadline cause delay to those few parties who may choose not to supplement their petitions for reconsideration. The nature of the DTV proceeding makes it difficult, if not impossible, for the Commission to resolve one DTV allotment without knowing the particular arguments regarding all other DTV allotments in that region. Thus, there is no possibility for early resolution of a particular DTV reconsideration petition simply because no supplement was filed.

10/ Under the overlapping deadlines currently in place, parties may be forced to repeat arguments or reply to some filing other than the immediately relevant submission. This confusion will be multiplied by the huge number of participants in this proceeding. At best, the unavoidable consequence will be to delay resolution of DTV allotments. At worst, the tangle of submissions will make it impossible for the Commission to resolve the many conflicting requests correctly.

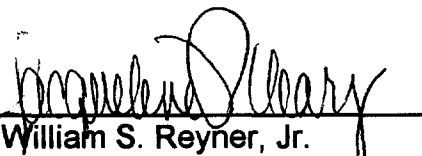
11/ See *supra* n.4.

II. CONCLUSION

The Commission has reasonably provided a period in which parties may supplement their petitions for reconsideration. The Commission should now seek to minimize the procedural difficulties that will result from this supplemental filing period by consolidating the deadlines by which oppositions must be submitted. Petitioners request that the Commission establish September 6, 1997, or some later date, as the deadline for filing oppositions to petitions for reconsideration, as supplemented.

Respectfully submitted,

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